



PATENT  
Customer No. 22,852  
Attorney Docket No. 02481.1631-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Wendelin FRICK et al. ) Group Art Unit: 1626  
Application No.: 10/606,771 ) Examiner: D. Lambkin  
Filed: June 27, 2003 ) Confirmation No.: 6378

For: BENZOTHIEPINE 1, 1-DIOXIDE DERIVATIVES, A PROCESS FOR THEIR  
PREPARATION, PHARMACEUTICALS COMPRISING THESE COMPOUNDS,  
AND THEIR USE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**Response Under 37 C.F.R. §1.111**

This paper responds to the non-Final Office Action dated January 14, 2005. The period for response has been extended by three months to July 14, 2005, by the enclosed Petition for Extension of Time and corresponding fee.

The Office Action Summary indicates that claims 31-35 are pending, however, claims 31-40 are pending in this application. The Preliminary Amendment filed with this application on June 27, 2003, includes all of claims 31-40. Claims 36-40 appear in the June 27, 2003, PAIR entry in the image file wrapper under the entry "Applicants Arguments or Remarks Made in an Amendment."

The Examiner rejected claims 31-35 under the judicially created doctrine of obviousness-type double patenting in view of claims 1-5, 12, 19-21, 23, 25, 27, and 29 of U.S. Patent No. 6,221,987; claims 1-8 of U.S. Patent No. 6,441,022, and claims 1-3 of U.S. Patent No. 6,642,269. Applicants assume that the Examiner intended to refer to U.S. Patent No. 6,221,897, rather than U.S. Patent No. 6,221,987.

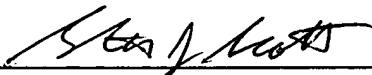
Applicants enclose a Terminal Disclaimer and accompanying fee that should obviate the rejection. The filing of the Terminal Disclaimer to obviate the rejection does not constitute an admission of the propriety of the rejection. See MPEP § 804.02.

In view of the above, Applicants believe that this application should be in condition for allowance. Please grant any extensions of time required to enter this Response and charge any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: July 12, 2005

By:   
Steven J. Scott  
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